

### REMARKS

Claims 1-21, 23, 24 and 33-55 are pending in the application and are the subject of the instant office action. Claim 19 has been canceled without prejudice, and Applicants reserve the right to pursue claims directed to such embodiments of the invention in further continuing applications.

For the Examiner's convenience, a clean copy of now pending claims 1-18, 20, 21, 23, 24 and 33-35 are provided above. The amendments are illustrated in the attached pages entitled "Marked Up Version To Show Changes Made". NA

Pursuant to the Examiner's request, page 1 of the specification has been amended to reflect the priority information for the present application. ✓

### Section 112 Rejections

Claims 11-18 were rejected under Section 112, first paragraph, as being non-enabled.

Applicants are providing herewith copies of the ATCC confirmation sheets received from the ATCC for each of the deposited hybridomas referred to in the specification. These confirmation sheets indicate that each of the hybridomas were deposited by Applicants' assignee, Genentech, Inc., pursuant to the terms of the Budapest Treaty. Pursuant to those terms, Genentech, Inc. (will have all restrictions upon public access to those deposits irrevocably removed upon grant of a patent on this application and will maintain those deposits in a public depository for a period of 30 years after the date of the deposit or five years after the last request for a sample or for the enforceable life of the patent, which period of time is longer.

Applicants accordingly request that the rejection of claims 11-18 be withdrawn.

Claim 19 was rejected under Section 112, first paragraph, as being non-enabled. As shown in the above amendment, claim 19 has been canceled without prejudice and without acquiescence to the instant rejection. In view of the cancellation of claim 19, it is requested that the subject rejection be withdrawn.

Claims 19, 35, 44 and 49 were rejected under Section 112, first paragraph, as being insufficiently described in the specification in a manner to convey possession of the claimed invention.

As shown in the above amendment, claim 19 has been canceled without prejudice and without acquiescence to the instant rejection. In view of the cancellation of claim 19, it is requested that this rejection as applied to claim 19 be withdrawn.

Applicants respectfully traverse the rejection as applied to claims 35, 44 and 49. Just as Applicants have demonstrated possession of monoclonal, chimeric and humanized anti-DR4 antibodies, human anti-DR4 antibodies have been sufficiently described to convey possession. The properties of the recited antibodies have been clearly recited and routine techniques (such as those reported by Hoogenboom and Winter, Cole et al., and Boerner et al., cited in Section A.3 of the specification) for making and identifying human forms of such antibodies have been disclosed. Accordingly, it is believed that claims directed to human forms of the antibodies should not be distinguished from the other monoclonal, chimeric or humanized forms of the antibodies.

Withdrawal of the rejection of claims 35, 44 and 49 is respectfully requested.

#### **Section 103 Rejections**

Claims 1-5, 9, 10, 20, 21, 23, 24, 33, 34, 38-40, 42, 43, 47, 48 and 52-54 were rejected under Section 103(a) as being obvious over Pan et al. in view of Campbell. Claims 1-10, 20, 21, 23, 24, 33, 34, 36-43, 45-48 and 50-55 were also rejected under Section 103(a) as being obvious over Pan et al. in view of Campbell and Gussow et al. Applicants respectfully traverse this rejection.

Pan et al. fail to teach or suggest the anti-DR4 antibodies as claimed. The present claims are directed to isolated antibodies which specifically bind to the recited DR4 sequence. It is believed that Pan et al. does not provide sufficient guidance to produce such antibodies, nor does Pan et al. teach or suggest anti-DR4 antibodies having the activity recited in claims 33, 42 or 47. The Campbell and Gussow et al. references, while providing some teaching as to antibody technology

generally, do not fill the gaps left by the limited disclosure of Pan et al. Therefore, it is believed that these cited references, either alone or in combination, do not teach or suggest the claimed anti-DR4 antibodies. Withdrawal of the Section 103(a) rejections is accordingly requested.

Respectfully submitted,  
GENENTECH, INC.

Dated: September 28, 2001

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Diane L. Marschang  
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MARKED UP VERSION TO SHOW CHANGES MADE

On page 1, under the title of the invention, the specification has been amended as follows:

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RELATED APPLICATIONS

This is a continuation-in-part application of [pending] application serial no. 09/237,299 filed January 25, 1999, now abandoned, which claims priority under Section 119(e) to provisional application number 60/072,481 filed January 26, 1998, now abandoned, the contents of which are incorporated herein by reference. --

Claim 19 has been canceled without prejudice.



# American Type Culture Collection

12301 Parklawn Drive • Rockville, MD 20852 USA • Telephone: 301-231-5519 or 231-5532 • FAX: 301-816-4366

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

## INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Genentech, Inc.  
Attn: Diane L. Marschang  
1 DNA Way  
So. San Francisco, CA 94080

Deposited on Behalf of: Genentech, Inc.

Identification Reference by Depositor:

ATCC Designation

Murine hybridoma 4E7.24.3 (Ref. Docket PR1245)  
Murine hybridoma 4H6.17.8 (Ref. Docket PR1245)  
Murine hybridoma 3F11.39.7 (Ref. Docket P1101P1)

HB-12454  
HB-12455  
HB-12456

The deposits were accompanied by: \_\_\_\_ a scientific description \_\_\_\_ a proposed taxonomic description indicated above.

The deposits were received January 13, 1998 by this International Depository Authority and have been accepted.

### AT YOUR REQUEST:

☒ We will not inform you of requests for the strains.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested January 16, 1998. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:

Barbara M. Hailey  
Barbara M. Hailey, Administrator, Patent Depository

Date: January 19, 1998

# ATCC



10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-

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**INTERNATIONAL FORM**

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

**To: (Name and Address of Depositor or Attorney)**

Genentech, Inc  
Attn: Stephen G. Juelsgaard  
1 DNA Way  
So. San Francisco, CA 94080

**Deposited on Behalf of:** Genentech, Inc.

**Identification Reference by Depositor:**

**ATCC Designation**

Murine Hybridoma Cells 5G11.17.1

HB-12694

The deposit was accompanied by:      a scientific description      a proposed taxonomic description indicated above.

The deposit was received April 1, 1999 by this International Depository Authority and has been accepted.

**AT YOUR REQUEST:**   X   We will not inform you of requests for the strain.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested April 23, 1999. On that date, the culture was viable.

**International Depository Authority:** American Type Culture Collection, Manassas, VA 20110-2209 USA.

**Signature of person having authority to represent ATCC:**

Barbara M. Hailey  
Barbara M. Hailey, Administrator, Patent Depository

**Date:** April 30, 1999

# ATCC



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**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
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**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

**To: (Name and Address of Depositor or Attorney)**

Genentech, Inc.  
Attn: Stephen G. Juelsguard  
1 DNA Way  
So. San Francisco, CA 94080

**Deposited on Behalf of:** Genentech, Inc.

**Identification Reference by Depositor:**

**ATCC Designation**

Murine Hybridoma Cells 1H5.25.9

HB-12695

The deposit was accompanied by:     a scientific description     a proposed taxonomic description indicated above.

The deposit was received April 1, 1999 by this International Depository Authority and has been accepted.

**AT YOUR REQUEST:**   X   We will not inform you of requests for the strain.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested April 30, 1999. On that date, the culture was viable.

**International Depository Authority:** American Type Culture Collection, Manassas, VA 20110-2209 USA.

**Signature of person having authority to represent ATCC:**

Barbara M. Halley  
Barbara M. Halley, Administrator, Patent Depository

**Date:** April 30, 1999

# ATCC



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AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

**To: (Name and Address of Depositor or Attorney)**

Genentech, Inc.  
Attn: Janet Hasak  
1 DNA Way  
South San Francisco, CA 94080

**Deposited on Behalf of:** Genentech, Inc. (Ref. P1245R1P1) *US*

**Identification Reference by Depositor:**

**Patent Deposit Designation**

Hybridoma cell line 4G7.18.8

PTA-99

The deposit was accompanied by: ☐ a scientific description ☐ a proposed taxonomic description indicated above.

The deposit was received May 21, 1999 by this International Depository Authority and has been accepted.

**AT YOUR REQUEST:** ☒ We will not inform you of requests for the strain.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested May 27, 1999. On that date, the culture was viable.

**International Depository Authority:** American Type Culture Collection, Manassas, VA 20110-2209 USA.

**Signature of person having authority to represent ATCC:**

Barbara M. Hailey  
Barbara M. Hailey, Administrator, Patent Depository

**Date:** May 27, 1999

cc: Diane Marschang